



ATTACHMENT A REMARKS

Claims 1-20 have been rejected under 35 USC 103(a) as being "unpatentable" over the Paterson reference in view of the Sargaison reference. This rejection is respectfully traversed.

Considering the references, it is agreed that the Paterson reference discloses a handset for a hands-free wireless telephone including an output device for presenting a media data stream, although it is not clear that lines 16-18 of column 1, cited by the Examiner, actually disclose this. Further, it is noted that item 105 in Figure 1, also referred to by the Examiner, is simply a ground line rather than a communication port. Moreover, lines 20-25 of column 3, cited by the Examiner, relate to the generation of a headset detect logic signal from the speaker audio line by a circuit coupled to the stationary conductor as well as to a digital logic circuit for monitoring the headset detect logic signal and generating a program response to this signal. Thus, it is clear that these lines disclose what they are said to disclose. In any event, to the extent that Paterson actually discloses the elements of the claims as outlined in the rejection, both the Examiner and applicant agree that Paterson does not disclose, quoting from the Office Action, "pause output of the media data stream to the output device after a first time period, if no communicative link exist between the output device and the communication port; and shut down operation of an electronic device including the system after a second time period, if no communication link exists between the output and the communication port, the second time period being of a longer duration than said first time period, wherein the system minimizes the amount of energy consumed by the electronic device."

Turning to the Sargaison patent, this patent is, of course, relied on as teaching the subject matter quoted above from the Office Action. In general, Sargaison relates to a system for automatically changing the state of a device coupled to a headphone wherein the system detects if at least one earpiece of the headphone is activated or deactivated and based on the activation state or change in activation state, a state change, determined by a preset of a control module, may occur in the device (see the Abstract). The Examiner has cited several paragraphs in Sargaison including

paragraphs [0048], [0049] and [0050]. As indicated in paragraph [0048] “[i]f the current state is ‘run’ or ‘play’ and one earpiece is removed, then depending on the preset, the device 100 or 200 may enter a pause, adjust volumes, fast forward, or reverse state, for example.” Paragraph [0049] provides that “[f]rom the current ‘run’ state, the removal of both earpieces may cause the device 100 or 200 to enter a ‘pause’ state or a ‘power save’ state.” Paragraph [0050] also provides that “the device 100 or 200 may enter the ‘power save’ state after a preset amount of time spent in the ‘pause’ state.” In this regard, Sargaison provides that “the user may remove one earpiece to answer a phone call” and that “if after 2 minutes (time interval being another present) the earpiece is not activated, then the device 100 or 200 will enter the ‘power save’ state.” Paragraph [0050] also provides that if the device is in a “pause state” the device may enter the “power save” state after a preset amount of time during which at least one earpiece is not activated.

Assuming for the sake of argument that the combination of the Paterson and Sargaison references is a proper one, it is respectfully submitted that there is no teaching of pausing the output of the media stream to the output device after a first predetermined time period if no communicative link exists between the output device and the communication port nor any teaching that the second time period as defined in the claims is of a longer duration than the first time period. In this regard, Sargaison provides for directly entering the “pause” state in response to removal of one or more earpieces, and there is no disclosure of entering this state after a predetermined first time period. Moreover, while Sargaison provides for entering the power save state after a predetermined amount of time (corresponding to the second time period of claim 1), there is simply no first predetermined time period against which the “second time period” is to be compared as to duration. Thus, independent claims 1 and 17 define over the references for at least these reasons.

Independent claim 10 has been amended to include the subject matter of claim 11 and provides that the method further comprises “the step of displaying an indication of the absence of the output device within said first time period on a display included in the portable audio device, if no communication link is detected between the output device and the communication port.”

In rejecting claim 11 and corresponding claims, the Examiner has made reference to paragraph [0022] of Sargaion. However, this paragraph merely discloses that the video processor may be coupled to a monitor or similar display device and clearly does not disclose the subject of claim 11. Similar remarks apply to dependent claim 3 which depends from claim 1 and dependent claim 19 which depends from claim 17. Thus, it is respectfully submitted that all of these claims are separately patentable over the cited reference.

The remaining dependent claims are patentable for at least the reasons set forth above in support of the claims parent thereto although it is believed that at least some of these claims are separately patentable.

A new independent claim 21 has been added which is directed to a portable battery powered audio device including, inter alia, a display, at least one battery for powering the device, a communication port for communicatively linking with the headphones of a set of headphones, and a microprocessor configured to execute a program of instructions causing the microprocessor to, inter alia, provide a command on the display during the first time period instructing the user to attach the headphones if no communicative link between the headphones and the microprocessor is detected. It is respectfully submitted that this claim patentably defines over the Paterson and Sargaion patents at least for the reasons discussed above in connection with the patentability of claim 11.

Allowance of the application in its present form is respectfully solicited.

END REMARKS